



## **Bylaw 14. Voluntary Alternative Dispute Resolution**

**(a) *General; Tax Controversies and Matters Subject to MTC ADR Processes.*** Under the general conditions set forth in this Bylaw and under such specific procedures as may be established from time-to-time by resolution of the Executive Committee (to be referred to initially as the "Statement of Specific Procedures for Initiation and Conduct of Multistate Tax Commission Alternative Dispute Resolution Processes"), the Commission shall be authorized to sponsor voluntary alternative dispute resolution processes (hereafter "ADR"). ADR processes may include arbitration (binding or non-binding at the election of the parties), mediation or any variation thereof as may be unanimously agreed upon by the parties to the particular ADR process. Subject to the general conditions and requirements of this Bylaw, the Executive Committee is authorized to adopt and maintain such specific ADR procedures and processes that it determines reasonably required to achieve any of the stated purposes of the Commission under the Multistate Tax Compact.

**(b) *Voluntary Nature of Alternative Dispute Resolution Process.*** No taxpayer or state shall be required to participate in any Commission ADR process and all such processes engaged in shall be conducted by the Commission only upon the voluntary and written agreement of all parties to the process.

**(c) *Confidentiality of Process.*** Unless waived in writing by all parties to the ADR process and upon such further limitations as may be specifically adopted by the Executive Committee, the conducting of such process and the results thereof shall remain confidential to the parties and to the Multistate Tax Commission and treated as such under the confidentiality laws of the respective states party to such process.

**(d) *Qualification of Mediators/Arbitrators; Maintenance of Registry.***

**(1) Mediators/Arbitrators for Matters of Multistate Impact.**

The Executive Committee shall establish minimum qualifications for persons applying to act as mediators or arbitrators under the MTC ADR Program in matters or controversies that have a multistate impact; and no person shall be authorized to act as such under the Program, unless he or she has met such minimum qualifications. In establishing such qualifications, the Executive Committee shall consider, among other qualifications, the required minimum amount of (a) education, knowledge and experience in matters of state taxation of

interstate and foreign commerce; and (b) training in ADR processes. The Executive Director shall maintain a list of such qualified mediators and arbitrators and make it available to the states and taxpayers.

(2) **Mediators/Arbitrators for Matters Not of Multistate Impact.**

The Executive Director shall also maintain a Registry or listing of those persons desiring to provide mediation/arbitration services to states and taxpayers in tax controversies and matters that do not have a multistate impact. Such Registry shall not be limited to those persons that have met the minimum set of qualifications described in paragraph (d)(1) and the recipients of such registry shall be clearly so notified.

**(e) *Creation of Special Advisory Committee.*** A Special Advisory Committee may be established by the Chair of the Commission to advise the MTC Executive Director on all matters of concern to the Commission's ADR processes, as well as those other matters as may be determined by the Chair. The Special Advisory Committee shall be structured and have such responsibilities as may be specifically determined by the Executive Committee.

**(f) *Biannual review.*** The Executive Committee shall review the operation of the MTC ADR Program biannually and report the results thereof to the Commission, along with any recommendations the Executive Committee may have.

**(g) *Statement of Intent and Effect.*** It is the intent of the Commission to authorize the Executive Committee to develop and sponsor a system of voluntary alternative dispute resolution processes. It is not the intent in any manner to adopt or implement any of the provisions of Article IX of the Multistate Tax Compact. That Article, which requires the Commission's adoption of a regulation for its implementation, authorizes and requires non-voluntary and binding arbitration for the resolution of certain tax disputes. The implementation of such a binding and involuntary process is not intended to be the subject of this Bylaw. Therefore, should a court of competent jurisdiction ever determine that Article IX were somehow placed into effect or otherwise authorized to apply to the member states by virtue of the adoption of this Bylaw, then this Bylaw shall be automatically repealed effective as of midnight of the day immediately preceding the day such final judgment was entered.

This Bylaw 14 has been adopted effective the 28th day of July, 1995 by the Multistate Tax Commission.